

1                   UNITED STATES DISTRICT COURT  
2                   EASTERN DISTRICT OF NEW YORK

3                   UNITED STATES OF AMERICA, : 18-CR-192 (WFK)  
4                   Plaintiff, :  
5                   -against- : United States Courthouse  
6                   KASSIN RIVERS, : Brooklyn, New York  
7                   Defendant. : Friday, July 30, 2021  
8                   : 3:00 p.m.  
9

10                  TRANSCRIPT OF CRIMINAL CAUSE FOR A STATUS CONFERENCE  
11                  BEFORE THE HONORABLE WILLIAM F. KUNTZ, II  
12                  UNITED STATES DISTRICT JUDGE

13                  A P P E A R A N C E S:

14                  For the Government:         JACQUELYN M. KASULIS, ESQ.  
15   Acting United States Attorney  
16   Eastern District of New York  
17   271 Cadman Plaza East  
18   Brooklyn, New York 11201  
19   BY: JONATHAN B. ALGOR, IV, ESQ.  
20   Assistant United States Attorney

21  
22                  For the Defendant:         FEDERAL DEFENDERS OF NY, INC.  
23   One Pierrepont Plaza  
24   16th Floor  
25   Brooklyn, New York 11201  
   BY: DEIRDRE VON DORNUM, ESQ.

22                  Court Reporter:             DAVID R. ROY, RPR  
23   225 Cadman Plaza East  
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Proceedings recorded by Stenographic machine shorthand,  
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1 P R O C E E D I N G S

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5 (In open court.)

6 THE COURTROOM DEPUTY: All rise.

7 Criminal cause for a status conference,

8 Docket Number 18-CR-00192, United States of America versus

9 Kassin Rivers.

10 Would each Counsel please identify themselves and  
11 state the names of their representative clients for the  
12 record, beginning with the Government.

13 MR. ALGOR: Good afternoon, Your Honor.

14 Jonathan Algor for the United States, J-O-N-A-T-H-A-N,  
15 A-L-G-O-R.

16 MS. PAPAPETRU: Sophia Papapetru, for  
17 MDC, Brooklyn Bureau of Prisons. Sophia, Papapetru,  
18 P-A-P-A-P-E-T-R-U.

19 We have our Associate Warden Melinda King.

20 MS. KING: Melinda King, M-E-L-I-N-D-A, K-I-N-G.

21 THE COURT: Good afternoon.

22 Are you all vacc'd --

23 MR. ALGOR: Yes, Your Honor.

24 THE COURT: -- fully vacc'd, yes or no?

25 MR. ALGOR: Yes.

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1           THE COURT: Yes? You may remove your masks, thank  
2 you, pursuant to our Court order.

3           Please be seated.

4           MS. VON DORNUM: Good afternoon, Your Honor.

5 Deirdre von Dornum, Federal Defenders of New York, standing  
6 in for Dawn Cardi, who represents Kassin Rivers.

7           It's my understanding that Mr. Rivers waived his  
8 presence today, Your Honor.

9           THE COURT: Thank you.

10          Are you fully vacc'd?

11          MS. VON DORNUM: I am, Your Honor.

12          THE COURT: You may remove your mask as well,  
13 Ms. von Dornum.

14          MS. VON DORNUM: Thank you, Your Honor.

15          THE COURT: Thank you, Ms. von Dornum.

16          And, Ladies and Gentlemen of the Public, welcome,  
17 as well. We have a rule in the court that for those in the  
18 well who are fully vacc'd, they are allowed to remove their  
19 masks, but that does not apply to those of you in the  
20 public. So if you please, even if you are fully vacc'd,  
21 please keep your mask in place.

22          All right. We are here on a status conference in  
23 the action of the United States of America versus Rivers,  
24 18-CR-192-3. The defendant, Mr. Rivers, is in custody.

25          On August 10th of 2018, the United States

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1 of America filed a criminal complaint against the defendant  
2 charging him with bank robbery in violation of Title 18  
3 United States Code, Section 2113(d).

4 On August 16th of 2018,  
5 the Honorable Magistrate Judge Lois Bloom, arraigned the  
6 defendant on the complaint and ordered the defendant  
7 detained with leave to reapply and to present a bail package  
8 in the future.

9 On August 30th of 2018, the United States of  
10 America filed a superseding indictment against the defendant  
11 and two Co-Defendants, James McCloud and Rodney Griffin,  
12 charging them with one count of bank robbery in violation of  
13 Title 18 of the United States Code, Section 2113(a) and  
14 2113(d), as in "David." The superseding indictment also  
15 contains a criminal forfeiture allegation.

16 On September 18th of 2018, this Court held its  
17 first status conference in the case. The Government advised  
18 the Court it would turn over Rule 16 discovery pursuant to  
19 Rule 16 of the Federal Rules of Criminal Procedure to  
20 Defense Counsel later that same day.

21 On October 23rd of 2018, the Court held it's next  
22 status conference at which time the Government turned over a  
23 plea agreement to the defense counsel. A jury was scheduled  
24 to begin trial on this action on Monday, March 4th of 2019,  
25 and after multiple adjournments, the trial in this action

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1 was scheduled to commence on June 6th of 2021. The Court  
2 excluded time in the interest of justice to that date.

3 On March 8th of 2019, the Court scheduled a change  
4 of plea hearing for April 1st of 2019, but on that day, the  
5 defendant chose not to go forward with the plea. At the  
6 request of the defendant, the Court appointed Mr. Joseph E.  
7 Kilada, K-I-L-A-D-A, to replace Defense Counsel.

8 On May 6th of 2019, the Court held its next status  
9 conference in this case. The Government advised the Court  
10 that it had turned over all Rule 16 Discovery to Defense  
11 Counsel. The parties informed the Court that they were  
12 engaged in continued plea negotiations.

13 On October 25th of 2019, the United States  
14 of America filed its first *motion in limine*.

15 On April 4th of 2020, the defendant filed a motion  
16 seeking bond for an emergency bail hearing due to the  
17 COVID-19 pandemic.

18 On April 6th of 2020, the Government filed a  
19 response in opposition to that motion.

20 On April 28th of 2020, this Court denied the  
21 motion.

22 On May 21st of 2020, Defense Counsel, Joseph  
23 Kilada, filed an *ex-parte* motion seeking leave to withdraw  
24 as counsel for the defendant.

25 On July 31st of 2020, the Court granted

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1 Defense Counsel's motion and appointed Ms. Dawn Cardi as  
2 Counsel for the Defendant.

3 On August 13th of 2020, Defense Counsel Ms. Cardi,  
4 requested the Court sign a proposed order directing the  
5 Bureau of Prisons, and any other medical providers, to  
6 provide Defense Counsel with copies of the defendant's  
7 medical records.

8 On August 14th of 2020, the Court ordered any  
9 medical provider with medical records in its possession  
10 relating to the defendant to disclose immediately those  
11 records to Defense Counsel.

12 On September 14th of 2020, the defendant filed a  
13 renewed motion for bond.

14 On November 17th of 2020, the Court denied  
15 Defendant's renewed motion for bail hearing and order  
16 granting his release, which the Second Circuit affirmed, in  
17 its wisdom.

18 On July 23rd, 2021, Defense Counsel filed a motion  
19 to compel, asking this Court to, quote/unquote, "...so order  
20 a letter regarding the defendant's condition at the MDC."  
21 Defense Counsel's letter explains that the defendant was in  
22 need of hearing aids, which he had not received despite six  
23 months of unanswered requests. Also the defense counsel  
24 detailed an urgent call of nature received from the  
25 defendant advising the defense counsel that the defendant

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1 has been, quote/unquote, "...without toilet facilities, that  
2 the officers had refused to either have his toilet repaired,  
3 and had refused to allow him to use other toilet facilities  
4 and to take him there when necessary." Defense Counsel  
5 noted that AUSA Jonathan Algor has also been trying to reach  
6 the BOP regarding the situation to seek a satisfactory  
7 resolution but had not at that time received a response.

8 On July 26th of 2021, Defense Counsel moved for a  
9 status conference before this Court. This Court scheduled  
10 the status conference on July 27th, 2021, at 2:00 p.m. At  
11 the July 27th, 2021 status conference, AUSA Mr. Jonathan  
12 Algor, who is here today, stated that the BOP representative  
13 had informed him that the defendant's toilet facility had,  
14 in fact, been fixed on Friday evening.

15 The Court inquired about the status of the  
16 defendant's hearing aids, to which AUSA Algor stated the  
17 defendant was now scheduled for a doctor's appointment in  
18 November of 2021. The Court then scheduled this status  
19 conference for today, Friday, July 29th, 2021, to confirm  
20 that the defendant's commode, had, in fact, been repaired  
21 and to address the status of the defendant's hearing aids.

22 On July 28th of 2021, the Court scheduled a change  
23 of plea hearing in the case for Friday, September 3rd of  
24 2021, at 12:00 noon.

25 On July 29th of 2021, Defense Counsel, Ms. Cardi,

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1 filed an additional letter with the Court regarding what  
2 Defense Counsel described as, quote/unquote, "...continued  
3 medical negligent and horrific conditions at the MDC and the  
4 MCC." Defense's Counsel's letter also notes she is expected  
5 to speak with her client in advance of today's July 30th  
6 conference to ask whether he is willing to waive his  
7 appearance and to allow Distinguished Counsel  
8 Deirdre von Dornum to stand in for Ms. Cardi. Ms. Cardi is  
9 attending the funeral of the mother of our judicial  
10 colleague, the Honorable Justice Sonia Sotomayor, who's  
11 mother passed away. And we send the Justice and the family  
12 our condolences.

13                   Counsel, is that a fair and accurate summary of  
14 the case to date?

15                   Beginning with the Government?

16                   MR. ALGOR: Yes, Your Honor.

17                   THE COURT: And Ms. von Dornum?

18                   MS. VON DORNUM: Yes, Your Honor. Thank you.

19                   THE COURT: Thank you.

20                   All right. Well, since this is an application  
21 filed by Ms. von Dornum and her colleague, who could not be  
22 here today, Ms. Cardi, I will ask Ms. von Dornum to begin by  
23 giving me a status update as to where the case stands, in  
24 your point of view, and then I will hear from  
25 the Government.

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1 MS. VON DORNUM: Thank you, Your Honor.

2 Yes. And so arriving at the courtroom today, I  
3 had no update. Mr. Algor had received no factual update.  
4 Ms. Cardi has heard nothing from the BOP.

5 As I entered the courtroom, I saw that  
6 Ms. Papapetru and AW King were here. So I inquired as to  
7 whether there had been any progress, and Ms. Papapetru  
8 informed me that, I'm sure coincidentally, Mr. Rivers is  
9 currently at the audiologist. She does not know if he --

10 THE COURT: What a coincidence?

11 MS. VON DORNUM: Yes.

12 She doesn't know if he'll receive his hearing aids  
13 today or not, but he is at the audiologist.

14 THE COURT: Do you mean it is not November and he  
15 is there?

16 MS. VON DORNUM: And he's there, yes.

17 THE COURT: What a coincidence?

18 MS. VON DORNUM: Yes.

19 THE COURT: Go ahead.

20 MS. VON DORNUM: So I think that is progress as to  
21 this very discrete point.

22 She also informed me that his commode was fixed  
23 last Friday. As you've said, I haven't independently  
24 confirmed that in any way, but I do understand the  
25 representation from the BOP is that it is fixed.

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1 THE COURT: All right.

2 Let me hear from Mr. Algor and then the Board of  
3 Prisons.

4 Mr. Algor, what is your understanding of the  
5 situation with respect to Mr. Rivers?

6 MR. ALGOR: Yes, Your Honor.

7 So as I mentioned on Tuesday, I learned that that  
8 day that the toilet had been fixed on Friday, and that,  
9 again, a plumber had gone there on that day to confirm that.  
10 I haven't heard anything regarding any representations from  
11 Ms. Cardi or Ms. Ferrone, who also represents Mr. Rivers  
12 regarding that confirmation, but that was passed on from  
13 MDC.

14 In addition, I did learn regarding the defendant's  
15 appointment, which is supposedly happening right now.

16 THE COURT: Thank you.

17 Let me hear from BOP officials.

18 And, again, would you spell your name for the  
19 court reporter?

20 MS. PAPAPETRU: Sophia Papapetru, P-A-P-A --

21 THE COURT: And just pull the microphone a little  
22 closer to you, please.

23 MS. PAPAPETRU: P-A-P-A-P-E-T-R-U.

24 THE COURT: Yes. Thank you. Welcome.

25 MS. PAPAPETRU: Thank you.

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1           THE COURT: And tell us what the status is with  
2 respect to Mr. Rivers.

3           I gather, by the way, I had received from one of  
4 your colleagues, an invitation to come to the MDC to inspect  
5 it.

6           Is that invitation still extend?

7           MS. PAPAPETRU: Yes.

8           THE COURT: Thank you. Please continue with your  
9 report.

10          MS. PAPAPETRU: The data that I received the  
11 information from Ms. Cardi in regards to the toilet was  
12 after-hours, and on the following day, I followed up. And  
13 at that time, Mr. Rivers actually made the complaint to one  
14 of our executive staff members that was on his unit, and --  
15 was our captain, and he immediately notified a manager of  
16 our facilities department, and that was rectified  
17 immediately. Generally, if that is something that is  
18 brought to the attention of any staff member, it is  
19 addressed immediately. The inmate will be relocated, or it  
20 will be rectified.

21          In regards to the hearing aids, I do understand  
22 that he was scheduled in March, I believe it was March 9th.  
23 I cannot speak on behalf of the scheduling system. The  
24 scheduling is done through an outside vendor for the  
25 Board of Prisons, that they are contracted. And I'm not

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1 sure particularly why there was such an extensive wait.  
2 However, our house services administrator moved that --  
3 moved multiple appointments around, and I do understand that  
4 they were able to be squeezed in today. And that was  
5 confirmed only this morning, so...

6 THE COURT: Excellent.

7 MS. PAPAPETRU: Yes.

8 THE COURT: And does your colleague have anything  
9 to say?

10 Do you have anything to say to the Court, ma'am?

11 MS. KING: Yes. Sometimes we have --

12 THE COURT: Would you pull your -- well, just  
13 state your name and pull the microphone close to you and  
14 keep your voice up.

15 Thank you.

16 MS. KING: Yes. I'm Melinda King,  
17 Associate Warden at MDC, Brooklyn.

18 Most of the time, we're not aware of these issues.  
19 And I was not aware, because I am the Associate Warden of  
20 Programs. However, actually, what I want to say is, when it  
21 was brought to my attention that, indeed, his appointment  
22 was in March, and he hadn't been scheduled to go to an  
23 outside facility until November, and it was actually my  
24 decision to contact medical and see if they can get him in  
25 as soon as possible; but that was my first time being aware

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1 that he had been waiting that long for the hearing aids,  
2 sir.

3 THE COURT: Thank you.

4 Well, you know, I think that this just shows you  
5 the benefit of attention to these matters.

6 But I also want to hear from Ms. von Dornum to the  
7 extent that you have ongoing requests or interactions with  
8 the Board of Prisons from the Federal Defenders' point of  
9 view.

10 Could you take us back, perhaps, a year or two  
11 with respect to the, what I refer to as "the Christmas  
12 Blackout" issues and just inform the Court as to what the  
13 Federal Defenders has done on a global level? Because as an  
14 Article III Court tasked with dealing with my cases and the  
15 defendants who appear before me, that's what my focus has  
16 been, and that is what we are here to resolve today. And I  
17 am glad to hear we have made some progress.

18 But, Ms. von Dornum, would you just give the Court  
19 and the public a sense of where you have been in this?

20 MS. VON DORNUM: Yes, Your Honor.

21 As you allude to, in January of 2019, the end of  
22 January of 2019, beginning of February of 2019, there was a  
23 blackout at MDC, Brooklyn caused an by electrical fire,  
24 which the Inspector General has determined was caused by  
25 negligence in term of maintenance. That electrical fire led

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1 to the shutdown of heat, light, and hot-water systems to the  
2 jail. The jail responded by locking each detainee into  
3 their cells for approximately eight days.

4                 The Court was not informed that that electrical  
5 fire had occurred, was not informed that people had been  
6 locked in. And, in fact, was told by Legal Counsel,  
7 everything is fine, the lights are on --

8                 THE COURT: When you say "by Legal Counsel," you  
9 mean Legal Counsel --

10                 MS. VON DORNUM: Nicole McFarland.

11                 THE COURT: -- of the --

12                 MS. VON DORNUM: Of the BOP.

13                 THE COURT: -- BOP?

14                 MS. VON DORNUM: Yes.

15                 THE COURT: All right. Go ahead.

16                 MS. VON DORNUM: It turned out through the efforts  
17 of the Court, Congress, the media, and the public that the  
18 situation inside was quite different. I was ordered in by  
19 Then Chief Judge Irizarry to tour the facility, together  
20 with an investigator from the U.S. Attorney's Office while  
21 the blackout was still ongoing.

22                 We saw that the lights and heat were out, but we  
23 also spoke to numerous people who had received no medical  
24 care, even in very extreme distress --

25                 THE COURT: And just to be clear, when you are

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1 saying "numerous people," you are talking about --

2 MS. VON DORNUM: The detainees.

3 THE COURT: -- the detainees?

4 MS. VON DORNUM: Right.

5 THE COURT: All right. Go ahead.

6 MS. VON DORNUM: Although, I think it's also quite  
7 fair to say that officers were suffering in this  
8 circumstance, as well. They were required to work in the  
9 dark and cold and not given sufficient backup in terms of  
10 security measures given the situation.

11 So, you know, with the efforts of the Court and  
12 the Inspector General of the United States, that situation  
13 was investigated. There were lawsuits filed. There was a  
14 series of findings made, both in court and by the  
15 Inspector General, as to what had led to that and the  
16 problems with the handling of it. One thing that was of  
17 particular concern was the lack of medical care during that  
18 time and the lack of accurate medical records. So since  
19 that time, my colleagues and I, together with members of the  
20 court and the U.S. Attorney's Office have tried to work to  
21 improve the responsiveness and accuracy of the medical  
22 system at the MDC.

23 I would say that those efforts have been an abject  
24 failure, that we continue, as evidenced today, to have to  
25 handle each situation, even the most routine. Here we have

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1 a man who is completely deaf, is obviously, it's a security  
2 problem if he can't hear people around him. No one  
3 disagrees that he is deaf. It's not a specialized problem,  
4 it's not a contested problem; but yet, it requires  
5 the Court's intervention and the Government's intervention  
6 to get him back to an audiologist where we're not certain  
7 that he will get his hearing aids, even in this now,  
8 five-month period. And that happens only with two  
9 conferences, the presence of an associate warden, the  
10 presence of counsel, and obviously, there's 1200 other  
11 people there.

12 I heard Counsel for the BOP say that appointments  
13 had been re-arranged to accommodate Mr. Rivers. And while I  
14 certainly appreciate that, I'm certain that there are other  
15 defendants who are under this Court's jurisdiction whose  
16 medical appointments were, no doubt, moved back so that he  
17 could get these routine hearing aids.

18 I also note that the BOP Legal Representative said  
19 that she couldn't address the problems with scheduling, and  
20 that the Associate Warden said she had no idea that these  
21 problems existed. So it seems to me that through  
22 the Court's efforts, we have identified each of the  
23 problems. First, that the scheduling system is not  
24 transparent. And even the legal department does not know  
25 why people have to wait nine months to get hearing aids, if

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1 they get them at all. The person who is in charge of health  
2 services is not being told, even when the defendant has  
3 asked for hearing aids. The lawyer has written over and  
4 over, and the prosecutor has contacted the jail. It's only  
5 when it escalates to Your Honor that there is attention, and  
6 then the person is able to go to the doctor.

7           So it would seem to me that we have an opportunity  
8 here to together work to have a different system in place  
9 where when a defendant or Defense Counsel requests medical  
10 aid and there is no, you know, controversy that that is  
11 needed, that the legal department specifically finds out  
12 when it will be scheduled, communicates that to the  
13 prosecutor, who is part of the Department of Justice, and  
14 communicates the need to the Associate Warden in charge of  
15 health services so that it can be addressed. The prosecutor  
16 can then communicate it to Defense Counsel if steps need to  
17 be taken. But I think this ongoing black hole of we send 30  
18 emails, we write to the Court, we call the prosecutor, the  
19 prosecutor calls, and then no one goes to the doctor until  
20 you schedule two conferences, that can't be a way to handle  
21 1200 people that are under the Court's custody and care.

22           So I would ask the Court to order that going  
23 forward when either Defense Counsel or Defendant makes a  
24 medical request and that medical request is not  
25 controversial, such as this one, that Legal within seven

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1 days inform the Criminal AUSA, who has sought that person's  
2 detention at the MDC, as to what steps have been taken  
3 provide medical records and an update; also inform the  
4 Associate Warden if that person cannot be seen within that  
5 period.

6 THE COURT: Well, that is a very interesting  
7 application, Ms. von Dornum. But I learned a long time ago  
8 as an Article III Judge that despite my enormous Article III  
9 powers, a judge's reach has to bear some relationship to his  
10 or her power.

11 So here is what I am going to order the parties to  
12 do: Within 30 days of today, the Federal Defenders will  
13 accept the invitation of the BOP that was extended to this  
14 Court, but will now be extended to you to visit, or to  
15 continue the visits to the MDC at the invitation and working  
16 with the Board of Prisons as you have indicated has gone on  
17 over the last two years. Together you will do that with the  
18 United States Attorneys for the Eastern District of New York  
19 and their investigators as you have been doing for the last  
20 two years. And most importantly, from my point of view, if  
21 they elect to join in on one or more of those visits, you  
22 will invite -- because I am sure the BOP will do this --  
23 invite the Chief Judge of the Eastern District of New York,  
24 Chief Judge Brodie; and the Chief Magistrate Judge of the  
25 Eastern District of New York, Chief Judge Pollack, with whom

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1 I know the Federal Defenders have been working on these  
2 issues for many years and the U.S. Attorney has as well. So  
3 you will extend that invitation to my Chief Judge, and you  
4 extend that invitation to Magistrate Judge Pollack, as the  
5 Chief Judge. And they will observe the conditions, if they  
6 elect to go. I am not telling them they have to go, but I  
7 suspect that they will be gracious enough to accept your  
8 invitation, they will observe the conditions, along with  
9 Federal Defenders, that gave rise to this Court's concerns  
10 about the treatment of Mr. Rivers about the conditions that  
11 have been successfully resolved in his particular case. But  
12 as Ms. von Dornum has pointed out, one down, 1200 to go is  
13 not really a very good way to proceed. Whack-a-mole has  
14 never been my strength.

15 Within 30 days of completion of your visit, or  
16 visits, the Federal Defenders, and I can direct the  
17 Federal Defenders, they are directed to file a written  
18 report with my chief judge, Chief Judge Brodie, and with the  
19 Chief Judge Magistrate for the Eastern District of New York,  
20 Judge Pollack, under whenever terms and conditions the  
21 Federal Defenders, two chief judges deem appropriate  
22 together sharing both contents with the  
23 U.S. Attorney's Office. We are not here to sandbag anybody.  
24 They are going to be involved in the investigation. You are  
25 going to write a report for the chief judge. It is going to

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1 be on notice with the U.S. Attorneys, and I think the  
2 U.S. Attorney's Office, I think that is the way to proceed.

3 Now, if the Federal Defenders and the chief  
4 judges, Chief Magistrate Judge Pollack and  
5 Chief Judge Brodie and the U.S. Attorney find that  
6 appropriate at the end of that process, whenever that is, to  
7 file a report with the Board of Judges, with the public, or  
8 not, that will be up to you folks who have been doing it.  
9 The last thing in the world you want is for this Court to  
10 parachute in and be buttinsky when you have been working on  
11 these issues. All right?

12 So I am going to put this in the form of an order  
13 so everybody can see what I have ordered and what I have not  
14 ordered.

15 MS. VON DORNUM: (Indicating.)

16 THE COURT: You can be seated.

17 As I once heard of the Late Judge Barbara Frankel  
18 say to a very distinguished counsel, such as yourself, You  
19 don't have to stand to listen. It is okay.

20 But here is the point: When I was about 14 years  
21 old -- I was born in Bed-Stuy, raised in Harlem. I have one  
22 brother two years younger who became a pediatric  
23 psychiatrist. I once asked him if that was because I was  
24 his big brother, and he said, Well, what do you think? I  
25 said, Never mind. I am not going to play the

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1 what-do-you-think game with a shrink.

2           When we got our first car, our parents' first car,  
3 it was fairly small, and my brother, Eric, and I were in the  
4 backseat, and like teenaged boys, young teenaged boys, 14,  
5 12, not always the best behaved, I guess. Now that I am a  
6 parent, I can understand that. And every now and then,  
7 either my father or my mother would say in certain tone of  
8 voice, Don't, make, me, come, back, there.

9           And I am saying to the Federal Defenders, I am  
10 saying to U.S. Attorney, I am saying to the BOP, and I am  
11 saying discreetly to my judicial colleagues who have worked  
12 on this, Don't make me come back there, because none of you  
13 will be happy if I have to revisit commodes and hearing aids  
14 time after time. This is not about Judge Kuntz. This is  
15 about Mr. Rivers and every Mr. Rivers in the BOP.

16           You guys, the Federal Defenders, U.S. Attorneys,  
17 BOP, Social Workers, Chief Judges, and Chief Magistrate  
18 Judges have been working on this problem for years. And  
19 when I am told that a distinguished lawyer, like  
20 Ms. Dawn Cardi, who has been working on this for years and  
21 years and years, and Distinguished Counsel, like  
22 Deirdre von Dornum, and the U.S. Attorneys who have been  
23 working on this for years, and the social workers and the  
24 BOP, and we are talking about six months to get hearing aids  
25 when you can gone on Amazon and get generic hearing aids in

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1   24 hours and getting a plumber in? Really? I am not having  
2   it. Okay?

3                 I had one case, if everything I have been told and  
4   I believe it is true, that has been muted out. Good for  
5   Mr. Rivers. Good for Judge Kuntz. I have done my job as an  
6   Article III Judge with a case.

7                 But you folks, you Federal Defenders with all the  
8   money the taxpayers pay -- and I am an old Wall Street guy,  
9   I want what I pay for -- and the U.S. Attorneys and the BOP  
10   and the Social Workers and the Chief Judges who do the  
11   administration, okay, don't make me come back there. Don't  
12   make me be the point person.

13                We have an elevator through that door (indicating)  
14   that is supposed to bring detained individuals up from the  
15   holding area downstairs. It has been broken for six months.  
16   When I have criminal defendants in this courtroom now, they  
17   have to be walked through the public arena because, for  
18   whatever reason, whoever is supposed to work that elevator  
19   and fix it, it has not worked for six months.

20               So trust me, I am not the guy you want running the  
21   BOP. I do not want to do it. It is not my skill set. I  
22   cannot even get the elevator to work in my little part of  
23   the forest. I am not a good superintendent. You do not  
24   want me to be superintendent. You don't want me to be  
25   superintendent. You guys and gals fix this, because if I

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1 have to fix it, you will not be happy. You will not be  
2 happy.

3 I am not going to send criminal defendants to be  
4 treated in this fashion, and I am not going to let them out  
5 to commit crimes against the people of the Eastern District  
6 of New York. I am not coddling anyone when I say fix the  
7 toilets and let them hear what they need to hear. Okay?  
8 This is not about coddling anyone. This is about a decent  
9 reflection of what it means to be a civilized society.

10 Everyone in this room has proceeded in good faith.  
11 But you got to do better, because I am telling you now, if I  
12 have to stop the car and get out and go to the back of the  
13 car, no one is going to be happy.

14 Tell that to your colleagues.

15 You tell that to your colleagues.

16 Okay. Is there anything else I can help anyone  
17 with today?

18 MR. ALGOR: Not from the Government, Your Honor.

19 MS. VON DORNUM: No, Your Honor. Thank you.

20 THE COURT: Thank you.

21 We will extend time. To the extent we need to do  
22 that, I will put that in the order, but I believe we are  
23 good to go.

24 Have a nice afternoon, everyone. Get your shots,  
25 if you have not, and have a nice day.

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1           I gather some of you are staying for the second  
2 round of the Judge Kuntz's Friday afternoon performance?

3           MS. VON DORNUM: Yes, Your Honor.

4           MR. ALGOR: Yes, Your Honor.

5           THE COURT: Thank you.

6           Have a good afternoon.

7           MR. ALGOR: Thank you, Judge.

8           MS. VON DORNUM: Thank you, Your Honor.

9           (Matter concluded.)

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I (we) certify that the foregoing is a correct transcript  
from the record of proceedings in the above-entitled matter.

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25

/s/ David R. Roy  
DAVID R. ROY

3rd Day of August, 2021  
Date

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